

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
Bluefield Division

DANNY R. BOWLES,

Plaintiff,

v.

Case No. 1:22-cv-00073

APOLLO FREIGHT SYSTEMS, INC.,
THEODORE AMMONS, INDIVIDUALLY,
AND LORI D. DAY, INDIVIDUALLY,

Defendants.

NOTICE OF REMOVAL

Defendant Apollo Freight Systems, Inc. (“Defendant”), by counsel, pursuant to 28 U.S.C. sections 1441 and 1446, file this Notice of Removal to remove this action from the Circuit Court for Mercer County, West Virginia. In support, Defendant states as follows:

1. The Plaintiff filed suit against the Defendants in the Circuit Court for the County of Mercer on August 31, 2021. Pursuant to 28 U.S.C. § 1446, copies of the Pleadings are attached (Ex. A).

2. While Defendant believes that Plaintiff may have requested service on the Clerk of the Secretary of State as statutory agents for the Defendant, Defendants do not believe service has been perfected on it and have not received a certified mailing. Nevertheless, Defendant filed its Answer on November 30, 2021.

3. This Court has removal jurisdiction over this matter as there is complete diversity of citizenship between Plaintiff (a resident of West Virginia) and Defendants and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

4. Defendant Theodore Ammons is a resident of the state of Illinois, both at the time of filing the Plaintiff's Complaint and at the time of this removal. He has not been served.

5. Defendant Apollo Freight Systems, Inc. is a business that is incorporated in the state of Illinois with its principal place of business in Summit, Illinois.

6. Defendant Lori Day is a resident of the State of Florida and consents to this removal.

7. On December 30, 2021, Defendant propounded to Plaintiff requests for admission to confirm that Plaintiff would not seeking more than \$75,000.00, exclusive of interest and costs.

8. On January 13, 2022, Plaintiff, individually, left a voicemail with Defendant Day, individually, stating that should the case proceed in Mercer County, West Virginia he "might be looking at between \$75,000 and \$100,000.00, on that accident."

9. Plaintiff failed to respond to Defendant's requests for admission.

10. Defendant filed this Notice of Removal before the expiration of 30 days following when it first be ascertained that the case is one which is or has become removable.

11. Defendant has given notice of the filing of this Notice of Removal to counsel for the Plaintiff and Defendant Day, and will file a copy with the Clerk of the Circuit Court for the County of Mercer, West Virginia.

12. Venue is proper pursuant to 28 U.S.C. § 1391(a).

WHEREFORE, Defendant requests that this Court remove this action from the Circuit Court for the County of Mercer, West Virginia.

APOLLO FREIGH SYSTEMS, INC.

By Counsel

/s/ Clinton W. Verity

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CERTIFICATE

I hereby certify that a true copy of the foregoing was sent via email and US Mail this 11th day of February, 2022 to:

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